REMARKS

Upon reviewing this application, it has come to the attention of the undersigned that all of the prior art which was timely and properly made of record in this case has not been substantively considered by the Examiner. Specifically, the Applicant prepared and timely filed an Information Disclosure Statement, along with PTO Form-1449 and copies of the necessary citations (a copy of the returned postcard, the submitted Statement and PTO Form-1449 attached, if copies of the citations are again required, please immediately contact the undersigned), under a February 15, 2002 Express Mailing Date. The Examiner has not confirmed to the undersigned, by signing and returning a copy of PTO Form-1449, that such references were substantively considered. Accordingly, the Applicant respectfully requests the Examiner consider the same at this time.

As all of this prior art was previously made of record in this case in a timely manner, it is respectfully submitted that Petition and/or an official fee is **not** necessary and the Examiner is required to substantively consider the same at this time. If any further action on the part of the Applicant is required in order for the Examiner to substantively consider this art, the Examiner is respectfully requested to contact the undersigned attorney immediately.

Claims 58-86 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for the reasons noted in the official action. The rejected claims are accordingly amended, by the above claim amendments, and the presently pending claims are now believed to particularly point out and distinctly claim the subject matter regarded as the invention, thereby overcoming all of the raised § 112, second paragraph, rejections. The entered claim amendments are directed solely at overcoming the raised indefiniteness rejection(s) and are not directed at distinguishing the present invention from the art of record in this case.

Claims 58-69 are rejected, under 35 U.S.C. § 102(b), as being anticipated by any one of Landes `501, Warren, III et al. `780 and/or Warren III et al. `077. The Applicant acknowledges and respectfully traverses all of the raised anticipatory rejections in view of the following remarks.

Landes `501, Warren, III et al. `780 and Warren III et al. `077 each teach the use of modifying a nucleic oligomer by attaching a peroxidase. However none of the three cited references in any way teach, suggest or disclose each and every one of the presently claimed features of the currently amended application. That is, the Applicant amended the current claims to eliminate the limitation of modifying a peroxidase.

In order to emphasize the above noted distinction between the presently claimed invention and the applied art, the independent claims of this application now recite the features of "[a] nucleic acid oligomer modified by attaching a non-intercalative catalytically redox-active moiety wherein the non-intercalative catalytically redox-active moiety is selected from the group consisting of native or modified alcohol dehydrogenase, native or modified fructose dehydrogenase, and native or modified lactate dehydrogenase". Such features are believed to clearly and patentably distinguish the presently claimed invention from all of the art of record, including the applied art.

Next, claims 70-86 are rejected, under 35 U.S.C. § 103(a), as being unpatentable over any one of Landes `501, Warren, III et al. `780 or Warren III et al. `077 further in view of Thorp et al. `918. The Applicant acknowledges and respectfully traverses the raised obviousness rejection in view of the following remarks.

The Applicant acknowledges that the additional references of Thorp et al. `918 may arguably relate to the feature(s) indicated by the Examiner in the official action. Nevertheless, the Applicant respectfully submits that the combination of the base references of Landes `501, Warren, III et al. `780 and/or Warren III et al. `077 with this additional art still fails to in any way teach, suggest or disclose the above distinguishing features of the presently claimed invention. As such, all of the raised rejections should be withdrawn at this time in view of the above amendments and remarks.

In view of the above amendments and remarks, it is respectfully submitted that all of the raised rejection(s) should be withdrawn at this time. If the Examiner disagrees with the Applicant's view concerning the withdrawal of the outstanding rejection(s) or applicability of the

Landes `501, Warren, III et al. `780, Warren III et al. `077 and/or Thorp et al. `918 references, the Applicant respectfully requests the Examiner to indicate the specific passage or passages, or the drawing or drawings, which contain the necessary teaching, suggestion and/or disclosure required by case law. As such teaching, suggestion and/or disclosure is not present in the applied references, the raised rejection should be withdrawn at this time. Alternatively, if the Examiner is relying on his/her expertise in this field, the Applicant respectfully requests the Examiner to enter an affidavit substantiating the Examiner's position so that suitable contradictory evidence can be entered in this case by the Applicant.

In view of the foregoing, it is respectfully submitted that the raised rejection(s) should be withdrawn and this application is now placed in a condition for allowance. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time.

The Applicant respectfully requests that any outstanding objection(s) or requirement(s), as to the form of this application, be held in abeyance until allowable subject matter is indicated for this case.

In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,

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